

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 893**

**Introduced by Assembly Member Shirley Horton**

February 18, 2005

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An act to amend ~~Section 3003 of the Penal Code, and to amend~~ Section 6607 of the Welfare and Institutions Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 893, as amended, Shirley Horton. Sex offenders: community placement.

~~Existing law generally regulates the granting and conditioning of parole.~~

~~This bill would require the paroling authority to consider the age and profile of the parolee's victim when making a decision about community placement of parolee who is required to register as a sex offender.~~

Existing law provides that if the Director of Mental Health determines that a sexually violent predator's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release, as specified.

This bill would in addition, require that when a placement location is proposed for a sexually violent predator in a report and recommendation for conditional release, consideration shall be given to the age and profile of the offender's victim.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 3003 of the Penal Code is amended to~~  
2     ~~read:~~

3     ~~3003. (a) Except as otherwise provided in this section, an~~  
4     ~~inmate who is released on parole shall be returned to the county~~  
5     ~~that was the last legal residence of the inmate prior to his or her~~  
6     ~~incarceration.~~

7     ~~For purposes of this subdivision, “last legal residence” shall~~  
8     ~~not be construed to mean the county wherein the inmate~~  
9     ~~committed an offense while confined in a state prison or local jail~~  
10    ~~facility or while confined for treatment in a state hospital.~~

11    ~~(b) Notwithstanding subdivision (a), an inmate may be~~  
12    ~~returned to another county if that would be in the best interests of~~  
13    ~~the public. If the Board of Prison Terms setting the conditions of~~  
14    ~~parole for inmates sentenced pursuant to subdivision (b) of~~  
15    ~~Section 1168, as determined by the parole consideration panel, or~~  
16    ~~the Department of Corrections setting the conditions of parole for~~  
17    ~~inmates sentenced pursuant to Section 1170, decides on a return~~  
18    ~~to another county, it shall place its reasons in writing in the~~  
19    ~~parolee’s permanent record and include these reasons in the~~  
20    ~~notice to the sheriff or chief of police pursuant to Section 3058.6.~~  
21    ~~In making its decision, the paroling authority shall consider,~~  
22    ~~among others, the following factors, giving the greatest weight to~~  
23    ~~the protection of the victim and the safety of the community:~~

24    ~~(1) The need to protect the life or safety of a victim, the~~  
25    ~~parolee, a witness, or any other person.~~

26    ~~(2) Public concern that would reduce the chance that the~~  
27    ~~inmate’s parole would be successfully completed.~~

28    ~~(3) The verified existence of a work offer, or an educational or~~  
29    ~~vocational training program.~~

30    ~~(4) The existence of family in another county with whom the~~  
31    ~~inmate has maintained strong ties and whose support would~~  
32    ~~increase the chance that the inmate’s parole would be~~  
33    ~~successfully completed.~~

34    ~~(5) The lack of necessary outpatient treatment programs for~~  
35    ~~parolees receiving treatment pursuant to Section 2960.~~

36    ~~(c) The Department of Corrections, in determining an~~  
37    ~~out-of-county commitment, shall give priority to the safety of the~~  
38    ~~community and any witnesses and victims.~~

1     ~~(d) In making its decision about an inmate who participated in~~  
2 ~~a joint venture program pursuant to Article 1.5 (commencing~~  
3 ~~with Section 2717.1) of Chapter 5, the paroling authority shall~~  
4 ~~give serious consideration to releasing him or her to the county~~  
5 ~~where the joint venture program employer is located if that~~  
6 ~~employer states to the paroling authority that he or she intends to~~  
7 ~~employ the inmate upon release.~~

8     ~~(e) (1) The following information, if available, shall be~~  
9 ~~released by the Department of Corrections to local law~~  
10 ~~enforcement agencies regarding a paroled inmate who is released~~  
11 ~~in their jurisdictions:~~

12     ~~(A) Last, first, and middle name.~~

13     ~~(B) Birth date.~~

14     ~~(C) Sex, race, height, weight, and hair and eye color.~~

15     ~~(D) Date of parole and discharge.~~

16     ~~(E) Registration status, if the inmate is required to register as a~~  
17 ~~result of a controlled substance, sex, or arson offense.~~

18     ~~(F) California Criminal Information Number, FBI number,~~  
19 ~~social security number, and driver's license number.~~

20     ~~(G) County of commitment.~~

21     ~~(H) A description of scars, marks, and tattoos on the inmate.~~

22     ~~(I) Offense or offenses for which the inmate was convicted~~  
23 ~~that resulted in parole in this instance.~~

24     ~~(J) Address, including all of the following information:~~

25     ~~(i) Street name and number. Post office box numbers are not~~  
26 ~~acceptable for purposes of this subparagraph.~~

27     ~~(ii) City and ZIP Code.~~

28     ~~(iii) Date that the address provided pursuant to this~~  
29 ~~subparagraph was proposed to be effective.~~

30     ~~(K) Contact officer and unit, including all of the following~~  
31 ~~information:~~

32     ~~(i) Name and telephone number of each contact officer.~~

33     ~~(ii) Contact unit type of each contact officer such as units~~  
34 ~~responsible for parole, registration, or county probation.~~

35     ~~(L) A digitized image of the photograph and at least a single~~  
36 ~~digit fingerprint of the parolee.~~

37     ~~(M) A geographic coordinate for the parolee's residence~~  
38 ~~location for use with a Geographical Information System (GIS)~~  
39 ~~or comparable computer program.~~

~~(2) The information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.~~

~~(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.~~

~~(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.~~

~~(f) Notwithstanding any other provision of law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.~~

~~(g) Notwithstanding any other law, an inmate who is released on parole for any violation of Section 288 or 288.5 shall not be placed or reside, for the duration of his or her period of parole, within one-quarter mile of any public or private school including any or all of kindergarten and grades 1 to 8, inclusive.~~

~~(h) Notwithstanding any other law, an inmate who is released on parole for an offense involving stalking shall not be returned to a location within 35 miles of the victim's actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of the victim.~~

~~(i) Notwithstanding any other law, the paroling authority shall consider the age and profile of the parolee's victim when making its decision about community placement of an inmate who is required to register pursuant to Section 290.~~

1 ~~(j) The authority shall give consideration to the equitable~~  
2 ~~distribution of parolees and the proportion of out-of-county~~  
3 ~~commitments from a county compared to the number of~~  
4 ~~commitments from that county when making parole decisions.~~

5 ~~(k) An inmate may be paroled to another state pursuant to any~~  
6 ~~other law.~~

7 ~~(l) (1) Except as provided in paragraph (2), the Department of~~  
8 ~~Corrections shall be the agency primarily responsible for, and~~  
9 ~~shall have control over, the program, resources, and staff~~  
10 ~~implementing the Law Enforcement Automated Data System~~  
11 ~~(LEADS) in conformance with subdivision (e).~~

12 ~~(2) Notwithstanding paragraph (1), the Department of Justice~~  
13 ~~shall be the agency primarily responsible for the proper release of~~  
14 ~~information under LEADS that relates to fingerprint cards.~~

15 ~~SEC. 2.~~

16 *SECTION 1.* Section 6607 of the Welfare and Institutions  
17 Code is amended to read:

18 6607. (a) If the Director of Mental Health determines that the  
19 person's diagnosed mental disorder has so changed that the  
20 person is not likely to commit acts of predatory sexual violence  
21 while under supervision and treatment in the community, the  
22 director shall forward a report and recommendation for  
23 conditional release in accordance with Section 6608 to the county  
24 attorney designated in subdivision (i) of Section 6601, the  
25 attorney of record for the person, and the committing court.

26 (b) When a report and recommendation for conditional release  
27 is filed by the Director of Mental Health pursuant to subdivision  
28 (a), the court shall set a hearing in accordance with the  
29 procedures set forth in Section 6608.

30 (c) When a placement location is proposed for a sexually  
31 violent predator in a report and recommendation for conditional  
32 release, consideration shall be given to the age and profile of the  
33 offender's victim.